

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CYBER EBOT WATTSON,
Plaintiff,
v.

ALTABATESHOSPITAL.COM,
Defendant.

No. C 14-0803 CW
ORDER GRANTING
PLAINTIFF'S
APPLICATION TO
PROCEED IN FORMA
PAUPERIS AND
DISMISSING THE
COMPLAINT

Plaintiff Cyber Ebot Wattson has filed an application for leave to proceed in forma pauperis (IFP). The matter was decided on the papers. Having considered all of the papers filed by Plaintiff, the Court grants the application to proceed IFP and dismisses the complaint.

DISCUSSION

A court may authorize a plaintiff to prosecute an action in federal court without prepayment of fees or security if the plaintiff submits an affidavit showing that he or she is unable to pay such fees or provide such security. See 28 U.S.C. § 1915(a). Plaintiff has submitted the required documentation, and it appears from his application that his assets and income are insufficient to enable him to prosecute the action. Accordingly, the application to proceed without the payment of the filing fee is granted.

The Court's grant of Plaintiff's application to proceed IFP, however, does not mean that he may continue to prosecute his complaint. A court is under a continuing duty to dismiss a case

1 filed without the payment of the filing fee whenever it determines
2 that the action "(i) is frivolous or malicious; (ii) fails to
3 state a claim on which relief may be granted; or (iii) seeks
4 monetary relief against a defendant who is immune from such
5 relief." 28 U.S.C. § 1915(e)(2)(B)(i)-(iii). Because a dismissal
6 pursuant to § 1915(e)(2)(B) is not a dismissal on the merits, but
7 rather an exercise of the court's discretion under the IFP
8 statute, the dismissal does not prejudice the filing of a paid
9 complaint making the same allegations. Denton v. Hernandez, 504
10 U.S. 25, 32 (1992).

11 Plaintiff's complaint does not state a claim on which relief
12 may be granted. The caption of Plaintiff's complaint indicates
13 that he seeks to pursue a fraud claim. However, the only
14 allegations in the complaint to support a fraud claim are that
15 Defendant was involved in a "fraud scam to produce fake birth
16 records" causing Plaintiff "to be labeled as a human born October
17 20th 1981" when he is "a cyber machine of the robotic species."
18 The Court finds that these allegations and the other allegations
19 in Plaintiff's complaint are not sufficient to support a fraud
20 claim or any other claim.

21 CONCLUSION

22 Accordingly, the Court dismisses Plaintiff's complaint. The
23 dismissal is without prejudice to the filing of a paid complaint
24 making the same allegations.

25 IT IS SO ORDERED.

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27 Dated: 4/15/2014

28 
CLAUDIA WILKEN
United States District Judge